

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EDWARD R. AND ANN M. CLARK,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53548</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 31, 2010, Diane M. DeVries and MaryKay Kelley presiding. Edward R. Clark represented Petitioners pro se. Respondent was represented by Michael A. Koertje, Esq. Petitioners are protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**819 Spyglass Circle, Louisville, Colorado
(Boulder County Schedule No. R0113942)**

The subject is a 1,781 square foot two-story residence with an unfinished basement and garage located on a 6,413 square foot lot in the Coal Creek Ranch subdivision.

Respondent assigned an actual value of \$387,000.00 for tax year 2009. Petitioners are requesting a value of \$361,000.00.

Mr. Clark expressed displeasure at the Assessor's and the Board of Equalization's failure to comply with their mission to ensure just and equalized assessments. Also, the multi-level appeal process involved a myriad of appraisals by different appraisers, conflicting adjustments, and a failure to acknowledge the taxpayer's input.

Mr. Clark compared the components of the subject's assigned value (\$202,000.00 for the structure and \$185,000.00 for the site) to that of 818 Spyglass Circle (\$169,000.00 for the structure and \$220,000.00 for the site). He described 818 Spyglass Circle, located across the street, as

comparable to the subject and argued that the 20% difference in the actual value for the structures was evidence of an erroneous valuation.

Mr. Clark applied Respondent's adjustments to the subject property, concluding to a value of \$361,000.00. His adjustment grid was not presented.

Respondent presented an indicated value of \$400,000.00 for the subject property based on the market approach. Respondent's witness presented four comparable sales ranging in sales price from \$399,900.00 to \$443,000.00 and in size from 1,718 to 2,404 square feet. After adjustments were made, the sales ranged from \$386,175.00 to \$417,060.00.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009.

The Board acknowledges Petitioners' frustration with the concept of uniformity in equalization and the appeal process. Colorado statutory and case law require the market approach to value. "Our state constitution and statutes make clear that individual assessments are based upon a property's actual value and that actual value may be determined using a market approach, which considers sales of similar properties." *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997).

The Board can consider an equalization argument (comparison of actual values) if evidence or testimony is presented showing that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioner.

The Board notes that Colorado statutory law does not allow comparison of component parts of total value. "At each level of appeal, a party may seek review of only the total valuation for assessment and not of the component parts of that total. Each statute speaks only of the right to appeal the 'value' or the 'valuation assessment set by the Assessor.' Notably absent from these statutes is language that would permit a party to limit the scope of the protest by appealing only a portion or component of the assessed value. *See, e.g. City & County of Denver v. Board of Assessment Appeals and Regis Jesuit Holding, Inc.*, 848 P.2d 355 (Colo. 1993) (although assessor may initially isolate lessor's and lessee's interests in property, property is assessed as unit and only one single assessment produced), *Cherne v. Boulder County Board of Equalization*, 885 P.2d 258, 260 (Colo. App. 1994).

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 24 day of September 2010.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Amy Bruins
Amy Bruins

